IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(*Special Original Jurisdiction*)

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WEDNESDAY, THE TWENTYSEVENTH DAY OF JULY

TWO THOUSAND AND FIVE

P R E S E N T

THE HON'BLE SRI JUSTICE ELIPE DHARMA RAO

WRIT PETITION No.16448 OF 2005

Between:

Mohd.Jahangir Alisha … Petitioners

Versus

The Revenue Divisional Officer,

Chevella Division, Rangareddy district

& Ors. … Respondents

Counsel for the Petitioner: Mr. VENUGOPALA RAO PASNOORU

Counsel for the Respondents 1 & 2: GOVT.PLEADER FOR REVENUE

O R D E R :

This writ petition is filed seeking mandamus to declare the inaction on the part of the second respondent in not enquiring into the matter and submitting report to the first respondent in Appeal No.B/2969/2004 as illegal, arbitrary and consequently direct the second respondent to enquire into the matter and submit report to the first respondent in Appeal No.B/2969/2004.

The petitioner submits that he is the absolute owner and possessor of Ac:0-30 gts.,

of open land along with old house no.6-37 and also a well in Gramakantam attached to survey no.278 of Parigi village, Rangareddy district. His grand father, who was the absolute owner thereof, had gifted the same to the petitioner on 28-11-1956. Since then, the petitioner is in exclusive possession and enjoyment over the said land.

While things stood thus, the respondents 3 and 4 illegally brought into existence one possession certificate dated 01-4-2002 through Proceedings No.B/1088/2002 stating that the same was issued by the second respondent and thereafter tried to construct compound wall including the land of the petitioner in the graveyard. Thereupon, the petitioner approached the second respondent and enquired about the same. Consequently, the second respondent issued memo dated 19-8-2004 stating that the land in survey no.278 is not a Government land and that no assessment certificate was ever issued to any one.

The petitioner submits that when he came to know about the Gram Panchayat granting permission on 24-9-2003 to the private respondents for construction of compound wall, he filed appeal no.3985/2004 before the District Panchayat Officer for cancellation of permission granted by the Gram Panchayat, Parigi. Thereafter, he filed a petition before the first respondent in case No.B/2969/2004 for cancellation of possession certificate issued by the second respondent. On the basis of his petition, the first respondent directed the respondents 3 and 4 not to make any construction and further directed the second respondent to enquire into the matter and submit a report.

Now the main grievance of the petitioner is that in spite of the direction of the first

respondent, the second respondent has not enquired into the matter nor submitted his report and if the appeal No.B/2969/2004 is not disposed of, the respondents 3 and 4 are likely to fabricate the record. Moreover, the petitioner also filed OS.No.82 of 2004 along with IA.No.229 of 2004 on the file of the Court of Junior Civil Judge, Parigi, seeking temporary injunction restraining the respondents 3 and 4 from interfering with his possession over Ac:0-27 gts., of land, house and well, pending disposal of the suit. The trial court ordered notice and after appearance of respondents 3 and 4 and on filing counter, the trial court heard the matter in detail and granted temporary injunction till disposal of the suit. Aggrieved thereby, respondents 3 and 4 filed CMA.No.11 of 2005 on the file of the Court of Subordinate Judge, Vikarabad, and the same is pending consideration.

The learned Govt.Pleader for Revenue on instructions submitted that the second respondent had submitted his report to the first respondent for taking further action in the matter. He further submits on instructions that the petitioner, who was the pattedar of survey no.278/1 in an extent of Acs:1-04 has sold the land to Mr.Mujhm Rahman, Mr.Moinuddin and President, Minority Association Parigi, in an extent of Ac:0-21, Ac:0-20 and Ac:0-03 respectively. Originally Grama Kantam (Goutan) land, which are having graves is abutting to patta land in survey no.278. The petitioner has sold an extent of Ac:0-03 in sy.no.278 to the respondents on 24-1-2003 for a consideration of Rs.25,100/- for grave yard purpose and he has received sale consideration of Rs.25,100/-. Further on 23-7-2003 the petitioner requested the President, Managing Committee Mosque, Pargi for erection of compound wall around the graves, which one existing is Grama Kantam (Goutan) as school children

are passing urine and attending natural calls. The Masjid committee Pargi obtained possession certificate from the then Mandal Revenue Officer for an extent of Ac:0-27 of Grama Kantam and obtained permission from the Gram Panchayat Pargi for construction of compound wall around the grave yard. Further the Gram Panchayat Pargi has issued permission vide no.504/2003 dated 24-9-2003 for construction of compound wall. The compound wall was constructed with the Government funds. The petitioner is having house towards west. But some unknown persons have damaged the compound wall on 5-10-2004. The Sub-Inspector of Police, Pargi has registered Cr.No.191/2004 for the offence under section 447, 427 of IPC on 08-10-2004 and remanded the accused to judicial custody. Further the proposals were submitted to the Collector for sanction of IAY house. The petitioner states that he has not sold the Goutan land to the Masjid Committee for graveyard purpose and also not received the sale amount of patta land in sy.no.278 to an extent of Ac:0-03. The disputed land is covered with full of bushes. The surveyor could not fix up the boundary of survey no.278. The masjid committee was requested to cut all the bushes for demarcation. Since they have not complied, as the compound wall was constructed with the consent of the petitioner only. The Collector, Rangaredy District has been addressed under Lr.No.B/6875/2004, dated 09-11-2004 for sanction of funds for reconstruction of compound wall and also sanction of an IAY home to the petitioner. Now regarding the attached Goutan land, the Gram Panchayat Pargi has to settle the issue as to whether the land belongs to the petitioner or Gram Panchayat.

Heard the learned counsel for the petitioner as well as the learned Govt.Pleader for

the respondents 1 and 2.

Considering the facts and circumstances of the case, without going into merits or otherwise, I deem it appropriate to dispose of the writ petition at the admission stage, directing the first respondent to consider and dispose of the Appeal No.B/2969/2004 filed by the petitioner, as the second respondent has submitted his report under Lr.No.B/6875/2004 dated 26-7-2005 to the first respondent and pass appropriate order on merits and in accordance with law, within a period of two weeks from the date of receipt of a copy of the order, after affording reasonable opportunity of hearing the petitioner.

With the above direction, the writ petition is disposed of at the admission stage. No costs.

JULY 27th, 2005. ----------

I S L. ELIPE DHARMA RAO, J.